

§ 739.1

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AUTHORITY: 7 U.S.C. 241 *et seq.*

SOURCE: 10 FR 4964, May 4, 1945, unless otherwise noted. Redesignated at 50 FR 1814, Jan. 14, 1985.

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DEFINITIONS

§ 739.1 Meaning of words.

Words used in the regulations in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 739.2 Terms defined.

When used in the regulations in this part, unless otherwise distinctly expressed or manifestly incompatible with the intent thereof:

(a) *Beans* means only dry edible beans used for human consumption.

(b) *The act* means the United States Warehouse Act, approved August 11, 1916 (39 Stat. 486; 7 U.S.C. 241-273), as amended.

(c) *Person* means an individual, corporation, partnership, or two or more persons having a joint or common interest.

(d) *Department* means the United States Department of Agriculture.

(e) *Secretary* means the Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(f) *Administrator* means the Administrator of the Service or any other officer or employee of the Service to whom authority has heretofore lawfully been delegated, or may hereafter lawfully be delegated, to act in his stead.

(g) *Designated representative* means the Administrator.

(h) *Service* means the Farm Service Agency of the U.S. Department of Agriculture.

(i) *Regulations* means rules and regulations made under the act by the Secretary.

(j) *Warehouse* means, unless otherwise clearly indicated by the context, any building, structure, or other protected inclosure in which beans are or may be stored for interstate or foreign commerce, or, if located within any place under the exclusive jurisdiction of the United States, in which beans are or may be stored and for which a license has been issued under the act.

(k) *Warehouseman* means, unless otherwise clearly indicated by the context, any person lawfully engaged in the business of storing beans and holding a warehouse license.

(l) *License* means a license issued under the act by the Secretary.

(m) *Licensed warehouseman's bond* means a bond required to be given under the act by a licensed warehouseman.

(n) *Licensed inspector* means a person licensed under the act by the Secretary to sample, to inspect, and to grade and to certificate the condition for storage and the grade of beans.

(o) *Licensed weigher* means a person licensed under the act by the Secretary to weigh and to certificate the weight of beans stored or to be stored under the act.

(p) *Receipt* means a warehouse receipt as prescribed by the act and regulations.

(q) *Dockage*. See "Pick."

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(r) *Pick* includes any material other than beans, together with undeveloped, shriveled, discolored, damaged, split, and small pieces of beans which are picked by hand or eliminated by mechanical means from the lot. The pick shall be calculated in terms of percentage based on the total weight of the beans including the material to be eliminated.

[10 FR 4964, May 4, 1945, as amended at 13 FR 8729, Dec. 30, 1948; 14 FR 681, Feb. 16, 1949. Redesignated and amended at 50 FR 1814, Jan. 14, 1985]

WAREHOUSE LICENSES

§ 739.3 Application forms.

Applications for licenses under sections 4 and 9 of the act and for amendments thereto shall be made to the Secretary upon forms prescribed for the purpose and furnished by the Service, shall be in English, shall truly state the information therein contained, and shall be signed by the applicant. The applicant shall at any time furnish such additional information as the Secretary or his designated representative shall find to be necessary to the consideration of his application.

§ 739.4 Grounds for not issuing license.

A license for the conduct of a warehouse shall not be issued if it be found by the Secretary, or his designated representative, that the warehouse is not suitable for the proper storage of beans, that the warehouseman is incompetent to conduct such warehouse in accordance with the act and the regulations in this part, or that there is any other sufficient reason within the intent of the act for not issuing such license.

§ 739.5 Net assets required.

Any warehouseman conducting a warehouse licensed, or for which application for license has been made, under the act shall have and maintain, above all exemptions and liabilities, net assets liable for the payment of any indebtedness arising from the conduct of the warehouse, to the extent of at least 40 cents per hundredweight for the maximum number of hundredweight that the warehouse will accommodate,

when stored in the manner customary to the warehouse, as determined by the Administrator, except that the amount of such assets shall not be less than \$10,000. If such warehouseman has applied for licenses to conduct two or more warehouses in the same State, the assets applicable to all of which shall be subject to the liabilities of each, such warehouses shall be deemed to be one warehouse for the purposes of the assets required under this section. For the purposes of this section only, paid-in capital stock, as such, shall not be considered a liability. Any deficiency in the required net assets may be supplied by an increase in the amount of the warehouseman's bond in accordance with § 739.12(b).

[39 FR 41825, Dec. 3, 1974. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 739.6 License shall be posted.

Immediately upon receipt of his license or of any amendment thereto under the act, the warehouseman shall post the same and thereafter, except as otherwise provided in the regulations in this part, keep it posted until suspended or terminated, in a conspicuous place in the principal office where receipts issued by such warehouseman are delivered to depositors.

§ 739.7 Suspension or revocation of warehouse licenses.

Pending investigation, the Secretary, or his designated representative, whenever he deems it necessary, may suspend a warehouseman's license temporarily without hearing. Upon written request and a satisfactory statement of reasons therefor submitted by a warehouseman, the Secretary, or his designated representative, may, without hearing suspend or revoke the license issued to such warehouseman. The Secretary, or his designated representative, may, after opportunity for hearing has been afforded in the manner prescribed in this section, cancel a license issued to a warehouseman when such warehouseman (a) is bankrupt or insolvent, (b) has parted in whole or in part with his control over the licensed warehouse, (c) is in process of dissolution or has been dissolved, (d) has ceased to conduct such licensed warehouse, or (e) has in any other manner